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In the Supreme Court of the United States

OCTOBER TERM, 1958

No. 514

STATES STEAMSHIP COMPANY, a corporation,

Petitioner,

vs.

UNITED STATES OF AMERICA,
ATLANTIC MUTUAL INSURANCE COMPANY,
PACIFIC NATIONAL FIRE INSURANCE COMPANY,
and THE DOMINION OF CANADA,

Respondents.

Motion for Leave to File Brief as Amici-Curiae in Support of Petition for Certiorari of States Steamship Company

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To the Honorable Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Now come AMERICAN MAIL LINE, AMERICAN PRESIDENT LINES, LTD., GRACE LINE, INC., LUCKENBACH STEAMSHIP COM-

PANY, INC., MATSON NAVIGATION COMPANY, MOORE-McCORMACK LINES, INC., OLIVER J. OLSON & CO., PACIFIC FAR EAST LINE, INC., PANAMA PACIFIC LINE and WEYERHAEUSER STEAMSHIP COMPANY, and respectfully move this Court for leave to file a brief as amici curiae in support of the petition for a writ of certiorari filed by petitioner States Steamship Company on November 13, 1958.

Counsel for States Steamship Company have consented to the filing of such a brief but such consent was refused by counsel for the respondents.

Movants are corporations organized and existing by virtue of the laws of various States of the United States and are common carriers by water in the domestic and foreign commerce of the United States. Together with petitioner, they are members of Pacific American Steamship Association, a trade association composed of most of the steamship lines with operating headquarters on the Pacific Coast; the vessels of which constitute over 90% of all American flag vessels so employed with Pacific Coast headquarters.

Movants are interested in this case because at the present time they are operating a total of over 120 vessels, practically all of which are classified as "war-built vessels", the vast majority of which were purchased from the United States Government following World War II in reliance upon their satisfactory condition. Of these vessels, records indicate that some 8 have suffered Class I fractures at some time during their life. If the decision of the Court of Appeals for the Ninth Circuit herein stands, there will be a serious question as to whether those companies who own ships with fracture experience will be able to operate them in the winter time and the implications are such that there is a serious question as to whether they may be operated *at all*.

Movants are further interested by reason of the failure of the Court below to give proper recognition to the relationship between a steamship company on the one hand and the United States Coast Guard and the American Bureau of Shipping on the other hand.

Finally, movants are interested because of the holding of the Court below which fails to distinguish between the "due diligence" requirements of the Carriage of Goods by Sea Act and the "lack of privity and knowledge" requirements of the Limitation of Liability statute. The decision below makes such inroads upon the protection afforded to a shipowner by the Limitation of Liability statute that it is questionable whether it has any real meaning.

Movants believe that while the petition for a writ of certiorari has been excellently prepared and presents compelling reasons why this Court should grant the writ, nevertheless it is written, and properly so, with particular emphasis upon the specific facts of the case. Movants believe that it is vital to the steamship industry that they, as amici curiae, present to the Court additional material to demonstrate that the impact of the decision below upon practical steamship operation in the domestic and foreign commerce of the United States is such that the case presents considerations of great public and national policy which should be ruled upon by this Court. Some of these considerations are touched upon in the petition for the writ of certiorari but movants believe that a fuller presentation is required.

If this motion is granted, movants will prepare and file a reasonably short brief which will demonstrate to the Court the widespread interest of the shipping industry in the issues presented and the serious impact which the decision below will have when translated into the practicalities of the every-day operation of steamships.

For the foregoing reasons, it is respectfully requested that this motion for leave to file a brief as amici curiae be granted.

Dated: San Francisco, California, November 24, 1958.

Respectfully submitted,

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Of Counsel:

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Certificate of Service by Mail

I am a member of the bar of the Supreme Court of the United States, counsel in this cause, and not a party thereto. On November 24, 1958, I deposited in the mail at San Francisco, California, 8 sealed envelopes with airmail postage thereon fully prepaid, each containing at least one true copy of this Motion, and addressed as follows:

Solicitor General,
Department of Justice,
Washington 25, D. C.

George Cochran Doub,
Assistant Attorney General,
Department of Justice,
Washington 25, D. C.

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